

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emmitt Sklar	Team: Squad #5	CCRB Case #: 201910531	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 11/25/2019 11:50 PM	Location of Incident: [REDACTED]	Precinct: 72	18 Mo. SOL 5/25/2021	EO SOL 1/9/2022	
Date/Time CV Reported Tue, 11/26/2019 12:38 AM	CV Reported At: Precinct	How CV Reported: In-person	Date/Time Received at CCRB Fri, 12/06/2019 11:49 AM		
Complainant/Victim	Type	Home Address			
[REDACTED]	[REDACTED]	[REDACTED]			
Witness(es)	Home Address				
[REDACTED]	[REDACTED]				
Subject Officer(s)	Shield	TaxID	Command		
1. POM Francis Cahill	08542	944252	HWY 02		
Witness Officer(s)	Shield No	Tax No	Cmd Name		
1. POM Christopher Rosario	08702	947947	HWY 02		
Officer(s)	Allegation			Investigator Recommendation	
A.POM Francis Cahill	Discourtesy: Police Officer Francis Cahill spoke discourteously to § 87(2)(b) [REDACTED]			[REDACTED]	
B.POM Francis Cahill	Off. Language: Police Officer Francis Cahill made remarks to § 87(2)(b) [REDACTED] based upon the perceived sexual orientation of § 87(2)(b) [REDACTED]			[REDACTED]	
C.POM Francis Cahill	Discourtesy: Police Officer Francis Cahill spoke discourteously to § 87(2)(b) [REDACTED]			[REDACTED]	

Case Summary

On November 26, 2019, § 87(2)(b) filed the following complaint in person at the Highway Unit 2 stationhouse. The complaint was forwarded to IAB, generating original log #19-42498. The CCRB received this complaint from IAB on December 6, 2019.

On November 25, 2019, at approximately 11:50 p.m., Police Officers Francis Cahill and Christopher Rosario, of Highway Unit 2, stopped § 87(2)(b) for speeding on the Gowanus Expressway near 54th Street in Brooklyn. § 87(2)(b)'s twin brother, § 87(2)(b) was also in the vehicle. PO Cahill allegedly told § 87(2)(b) "I don't want to see your fucking PBA card" (**Allegation A: Discourtesy**, § 87(2)(g)). PO Cahill issued § 87(2)(b) seven summonses for various VTL infractions: disobeying a traffic device (two), failing to signal a lane change (two), moving from a lane unsafely (two), and speeding over the posted limit (**Board Review 01**). The vehicle stop concluded and § 87(2)(b) drove away.

A few minutes later, on an unknown street near the highway, § 87(2)(b)'s vehicle drew level with the officers' vehicle. While inside his car, PO Cahill allegedly called § 87(2)(b) a "faggot," (**Allegation B: Offensive Language**, § 87(2)(g)) and allegedly said, "Fuck you" (**Allegation C: Discourtesy**, § 87(2)(g)).

The investigation obtained BWC footage from the initial vehicle stop (**Board Review 02-03**, summarized at **Board Review 04**). The investigation also obtained silent dashcam footage from the initial stop (**Board Review 13-15**). The investigation did not obtain any BWC footage of the second interaction. The nature of that interaction did not require the use of BWC as per the Patrol Guide.

This case was reassigned from Inv. Evan Tims to Inv. Angel Riddle on May 17, 2021, after Inv. Tims' resignation from the CCRB. The case was reassigned from Inv. Riddle to the undersigned on July 20, 2021.

This investigation was delayed by the case having been with the Mediation Unit for approximately ten months before it was returned for a full investigation.

Findings and Recommendations

Allegation (A) Discourtesy: Police Officer Francis Cahill spoke discourteously to § 87(2)(b)

§ 87(2)(b) provided an initial phone statement within a month of the incident, but he did not provide a full interview until 11 months after the incident (**Board Review 05-06**). In his initial statement, he recounted that PO Cahill saw § 87(2)(b)'s PBA card when he opened his wallet, and that PO Cahill said, "I don't want to see your PBA card." § 87(2)(b) then added that PO Cahill may have used some iteration of the word "fuck" in that statement, such as, "I don't want to see your fucking PBA card." § 87(2)(b) could not recall PO Cahill's exact words. During the later phone interview, § 87(2)(b) recalled that PO Cahill appeared upset during the stop, but he did not spontaneously recount that PO Cahill used any profanity during their initial conversation at the driver's window. However, upon being reminded of the allegation he made in his initial phone statement, § 87(2)(b) confirmed that PO Cahill did say, "I don't want to see your fucking PBA card."

§ 87(2)(b) did not provide a statement to the investigation until more than 11 months after the incident (**Board Review 07**). He testified that he was "pretty sure" PO Cahill used the word "fuck"

during the incident, but he could not remember the specific context.

The BWC footage shows the entirety of the first interaction between the officers and § 87(2)(b). PO Cahill's BWC shows PO Cahill exit his car to speak with § 87(2)(b). PO Cahill tells § 87(2)(b) "I don't want to see that," as § 87(2)(b) fumbles through his wallet in search of an identification card (**Board Review 02**, at approximately 1:25). At no point in the footage does PO Cahill say the phrase, "Fucking PBA card."

PO Cahill denied making the alleged profane remark (**Board Review 08**).

The BWC footage shows that PO Cahill did not say "fucking PBA card." § 87(2)(g)

Allegation (B) Offensive Language: Police Officer Francis Cahill made remarks to § 87(2)(b) based upon the perceived sexual orientation of § 87(2)(b)

Allegation (C) Discourtesy: Police Officer Francis Cahill spoke discourteously to § 87(2)(b)

It is undisputed that, at another location soon after the initial vehicle stop, § 87(2)(b)'s car pulled up alongside the passenger side of the officers' car.

§ 87(2)(b) recounted that he stopped next to the officers' car at a red light approximately one minute after the stop. He asked the officers for their command and told them that he would get them "in trouble" by going to their precinct stationhouse. § 87(2)(b) also told them that it was wrong for them to have issued him summonses. In his initial phone statement, § 87(2)(b) recounted that PO Cahill spoke across PO Rosario out the lowered passenger window, and that PO Cahill called him a "faggot." PO Cahill also said, "Fuck you." However, in his later phone interview, § 87(2)(b) claimed that PO Rosario, not PO Cahill, may have called him a "faggot." He also recounted that the officers actually spoke to him using their vehicle's loudspeaker, as opposed to from their open windows.

§ 87(2)(b) recalled that the officers both spoke to and laughed at them over a loudspeaker. He could not recall whether either officer used the word "faggot." He did not know what specific profanity the officers used but believed that they did so due to their general attitude.

PO Cahill recounted that § 87(2)(b) drove beside the officers' vehicle for some time after the conclusion of the initial stop. PO Cahill denied that he had any further interaction with § 87(2)(b) during that time. PO Cahill denied calling § 87(2)(b) a "faggot," and he did not recall saying, "Fuck you." PO Cahill noted that, in fact, § 87(2)(b) called him a "faggot" during the initial vehicle stop.

PO Rosario similarly testified that § 87(2)(b) pursued the officers' car and pulled alongside them (**Board Review 09**). He recounted that § 87(2)(b) cursed at him and PO Cahill, and that they ignored him and drove away. He denied that anyone called § 87(2)(b) a "faggot" or said, "Fuck you," to him.

As previously noted, there was no BWC footage or dashcam footage of this portion of the incident. PO Cahill's BWC footage confirms that § 87(2)(b) called him a "faggot" during the initial stop (**Board Review 02**, at 21:27).

§ 87(2)(g), § 87(2)(b)

Allegations B-

Civilian and Officer CCRB Histories

- ### Mediation, Civil, and Criminal Histories

- § 87(2)(b)

Investigator:	<u>Emmitt Sklar</u>	<u>Inv. Emmitt Sklar</u>	<u>09/01/2021</u>
	Signature	Print Title & Name	Date
Squad Leader:	<u>Daniel Giansante</u>	<u>IM Daniel Giansante</u>	<u>September 8, 2021</u>
	Signature	Print Title & Name	Date
Reviewer:	<u> </u>	<u> </u>	<u> </u>
	Signature	Print Title & Name	Date